

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

SOVEREIGN BANK, N.A.,  
Plaintiff,

v.

No. 12-146 ML

KEVIN O'BRIEN,  
Defendant.

**ORDER**

On March 5, 2012, Plaintiff, Sovereign Bank, N.A. ("Plaintiff") filed a complaint against Defendant, Kevin O'Brien ("Defendant"). On May 21, 2012, Defendant answered the complaint and filed its counterclaim. On October 1, 2012, Plaintiff filed a motion to amend and supplement the complaint, adding a breach of contract claim and a fraudulent transfer claim against Defendant. Plaintiff also sought to assert a fraudulent transfer claim against two additional defendants (denominated by Defendant as the "Transferee Defendants"). On October 18, 2012, Defendant responded to Plaintiff's motion to amend arguing that the Court did not have personal jurisdiction over the Transferee Defendants. Plaintiff also argued that the fraudulent transfer claim asserted against Defendant is futile. On October 29, 2012, Plaintiff filed a reply memorandum, inter alia, wherein it withdrew the portion of its motion to amend seeking to add the Transferee Defendants.

"Leave to amend is to be freely given, unless it would be futile . . . ." Resolution Trust Corp v. Gold, 30 F.3d 251, 253 (1st Cir. 1994) (internal quotation marks and citation omitted).

Having reviewed Plaintiff's revised proposed amended complaint and the claim of fraudulent transfer asserted against Defendant, the Court cannot say that the claim, as plead, is futile.

Therefore, the Court grants Plaintiff's motion to amend in so far as it does not include any claim against the Transferee Defendants. See Reply Memorandum in Support of Sovereign Bank, N.A.'s Motion To Amend; Revised Proposed Verified Amended and Supplemental Complaint, Docket # 29-1. Plaintiff shall file its amended complaint on or before 14 days from the date of this order.

SO ORDERED.

/s/ Mary M. Lisi

Mary M. Lisi

Chief United States District Judge

November 1, 2012